

July 18, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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ORDER DISMISSING APPEAL

SUBJECT: Department of Development and Environmental Services File No. **E0700983**

MARK ROY
Code Enforcement Appeal

Location: 20121 Southeast 248th Street

Appellant: **Mark Roy**
20121 Southeast 248th Street
Maple Valley, Washington 98038
Telephone: (425) 221-1465

King County: Department of Development and Environmental Services (DDES)
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6772
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A hearing in this matter was held May 6, 2008, at which the Examiner received evidence and heard argument. The Examiner makes the following findings and conclusions compelling dismissal of the appeal:

1. On February 14, 2008, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order charging Mark Roy with four violations of County Code and establishing a compliance schedule for required correction.
2. "23.36.010.Administrative Appeal – Filing requirements
 - A. Any person issued a citation or named in a notice and order or stop work order and any owner of the land where the violation for which a citation, notice and order or stop work order is issued occurred (sic) and any complainant who is an aggrieved person pursuant to K.C.C. Title 20 and requests to be kept advised pursuant to K.C.C. 23.02.070H may file a notice of appeal of a citation, notice and order, stop work order, determination to

enter into a voluntary compliance agreement or a determination not to issue a citation or order within fourteen days of the service of the citation, notice and order or stop work order with the issuing department.

- B. If a notice of appeal has been filed within the time period provided herein, the appellant shall file a statement of appeal within twenty-one days of the service of the citation, notice and order or stop work order with the issuing department.

...”

3. “The statement of appeal shall identify the decision being appealed and the alleged errors in that decision. Further, the statement of appeal shall state specific reasons why the decision should be reversed or modified; and the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be based principally on matters or issues raised in the statement of appeal. Failure to timely file a notice of appeal, appeal fee or statement of appeal deprives the examiner of jurisdiction to consider the appeal.” [KCC 20.24.090.C.2]
4. On March 3, 2008, Mr. Roy filed a Notice and Statement of Appeal. In so doing, he used the DDES-provided standard Notice and Statement form. In all of the multiple substantial information entries on the form, Mr. Roy merely stated, “Need time to seek legal advice.” There is no statement of grounds why the Notice and Order is unjust or unlawful, or erroneous in any manner; no statement of material facts in support of any grounds of error; and no statement of relief sought. The Statement thus fails to provide the claim substance required by KCC 20.24.090.C.2 noted above.
5. The appeal statement makes no substantial claim, and therefore is legally unactionable as a claim on appeal.
6. As the appeal is unactionable, it shall be dismissed pursuant to Hearing Examiner Rule of Procedure IV.

ORDER:

1. Mark Roy’s APPEAL from the DDES Notice and Order issued February 14, 2008 is hereby DISMISSED.
2. As the appeal during its pendency stayed the effectiveness of the Notice and Order, the deadlines for compliance set forth in the Notice and Order are adjusted commensurately, as follows:
 - A. The March 20, 2008 deadlines stated in compliance items 1-4 are revised to be **August 25, 2008**; and the April 21, 2008 deadline set forth in item 2 in the compliance section is revised to be **September 26, 2008**.

DDES may extend the above deadlines in its sole discretion if warranted by circumstances beyond the Appellant’s control and diligent compliance efforts.

3. No penalties shall be imposed on Mr. Roy or the property if the above deadlines (as may be extended by DDES) are met in full. If any of them is not met, penalties may imposed by DDES retroactive to the date of this order in conformity with County Code.

ORDERED July 18, 2008.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

The Examiner's Summary Order shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within 21 days of issuance of the Examiner's Order. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE MAY 6, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0700983.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin representing the Department and Mark Roy the Appellant.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | DDES staff report to the Hearing Examiner for E0700983 |
| Exhibit No. 2 | Copy of the Notice & Order issued February 14, 2008 |
| Exhibit No. 3 | Copy of the Notice and Statement of Appeal received March 3, 2008 |
| Exhibit No. 4 | Copies of codes cited in the Notice & Order |
| Exhibit No. 5a | Photographs of subject property taken by Holly Sawin |
| Exhibit No. 5b | Aerial photograph of subject property taken in 2007 |
| Exhibit No. 6 | King County Code 16.02.290 |

PTD:vsm
E0700983 RPT